IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 19.06.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice V.DHANAPALAN

Habeas Corpus Petition No.222 of 2006

N.Chinnathai ... Petitioner

vs.

1. State of Tamil Nadu,
Rep by the Secretary,
Prohibition and Excise Department,
Fort St. George, Chennai 9.

2. The District Magistrate and
The District Collector,
Vellore District. ... Respondents

Petition under Article 226 of the Constitution of India for the issuance of Writ of Habeas Corpus to call for the records relating to the Detention Order C3.D.O. No.14/2006 dated 11.02.2006 passed by the second respondent under Tamil Nadu Act 14 of 1982, quash the same, direct the respondent to produce detenu Nagaraj S/o. Govindan, now confined in Central Prison, Vellore, before Court and set him at liberty.

For Petitioner : Mr.Abudukumar Rajarathinam
For Respondents : Mr. M.Babu Muthu Meeran,
Addl. Public Prosecutor.

O R D E R

(Order of the Court was made by P.SATHASIVAM, J.)

The petitioner herein challenges the order of detention, dated 11.02.2006, detaining her husband by name Nagaraj as 'Bootlegger' as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982).

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2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel for the petitioner, submitted that the detenu was not supplied with the relied on documents, which vitiates the ultimate order of detention. By taking us through para No.5 of the grounds of detention, learned counsel contended that though the Detaining Authority mentioned the details regarding the bail petition filed before the District Court as well as this Court, copies of those documents were not supplied to the detenu, which prevented him from making effective representation, and also infringed the right given to him under Article 22 (5) of the Constitution.

4. On going through the specific reference made in paragraph No.5 relating to the orders passed by the District Court and this Court as well as pendency of Criminal Original Petition to enlarge the detenu on bail, we are of the view that those documents were heavily relied on by the Detaining Authority before arriving at the subjective satisfaction as regards the detenu's coming out on bail. In such circumstances, we hold that failure to supply those documents vitiates the ultimate detention order.

5. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith from the custody unless he is required in some other case or cause.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

JI.

To

1.The Secretary to Government, Prohibition and Excise Department, Fort St. George, Chennai 600 009.
2. The District Magistrate and District Collector, Vellore.
3. The Superintendent, Central Prison, Vellore.
(In duplicate for communication to detenu)

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4. The Joint Secretary to Government, Public (Law and Order)
   Fort St. George, Chennai-9.
5. The Public Prosecutor, High Court, Madras.

+1cc to M/s. P.Kumaresan, Advocate Sr 25822

AVM (CO)
km/3.7.

HCP. No.222 of 2006

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